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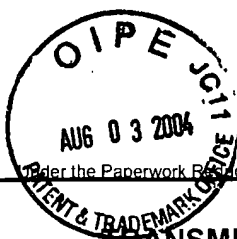
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PTO/SB/21 (02-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/849,756	
	Filing Date	May 20, 2004	
	First Named Inventor	Anthony Ross	
	Art Unit	1615	
	Examiner Name	N/A	
Total Number of Pages in This Submission	7	Attorney Docket Number	034US2

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Jonathan Spangler
Signature	
Date	July 29, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Jonathan Spangler		
Signature		Date	July 29, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT
Application Serial No. 10/849,756
Attorney Ref. No. 034US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Patent Application of)
Anthony Ross, et al.) Group Art Unit: 1615
App. Ser. No. 10/849,756)
Filed: May 20, 2004) Examiner: n/a
For: THERMOPOLYMER)
COMPOSITION AND RELATED)
METHODS)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, PO Box 1450, Alexandria VA 22313-1450 on July 29, 2004:

Signature: 
Jonathan Spangler

PETITION TO CORRECT FILING DATE

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

Dear Sir:

Applicants respectfully petition the Commissioner for a corrected filing date. There is a discrepancy between the filing date initially accorded by the Patent Office (May 21, 2004) and the "date-in" entered by the USPS (May 20, 2004).

As provided by 37 CFR 1.10(c), "Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded

by the Office to the correspondence and the date of deposit as shown in by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in", and of any other official notation by the USPS relied upon to show the date of deposit.

With respect to 37 CFR 1.10(c)(1) above, Applicants were not aware of the incorrect filing date until reviewing the Filing Receipt mailed July 20, 2004 (copy enclosed as Exhibit A). As such, Applicants respectfully submit that this requirement has been met.

With respect to 37 CFR 1.10(c)(2) above, enclosed as Exhibit B please find a copy of the Return Postcard enclosing the contents of the subject application, which included the Express Mail mailing number prior to original mailing by Express Mail. As such, Applicants respectfully submit that this requirement has been met.

With respect to 37 CFR 1.10(c)(3) above, enclosed as Exhibit C please find a true copy of the Express Mail mailing label showing the "date-in" of May 20, 2004 (as marked by USPS personnel). As such, Applicants respectfully submit that this requirement has been met.

PATENT

Application Serial No. 10/849,756

Attorney Ref. No. 034US2

Based on the foregoing, Applicants respectfully request that the Commissioner grant this Petition for a Corrected Filing date such that the official USPTO records reflect the true filing date of May 20, 2004.

If there are any questions or comments pertaining to this Petition, or anything further regarding this application, the Examiner is invited to call the undersigned counsel. If there are any fees due as a result of this Petition, the Commissioner is authorized to charge such fees to Deposit Account No. 50-2040 in the name of NuVasive, Inc.

Respectfully submitted,
NUVASIVE, INC.

By: 
Jonathan Spangler, Esq.
Registration No. 40,182

10065 Old Grove Road
San Diego, CA 92131
Tel.: (858) 243-0029

Date: July 29, 2004

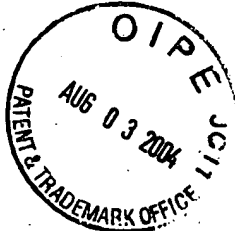


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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/849,756	05/21/2004	1615	385	801001034US2	4	20	3

30328
NU VASIVE, INC.
10065 OLD GROVE ROAD
SAN DIEGO, CA 92131



CONFIRMATION NO. 7358

FILING RECEIPT



OC000000013276659

Date Mailed: 07/20/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Anthony C. Ross, Hollywood, SC;
Peter Guagliano, Brooklyn, NY;

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US02/37541 11/21/2002

Foreign Applications

If Required, Foreign Filing License Granted: 07/19/2004

Projected Publication Date: 10/28/2004

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Thermopolymer composition and related methods

Preliminary Class

EXHIBIT B

In re Patent Application of: Anthony C. Ross et al.
Title: Thermopolymer Composition and Related Methods
Attorney Docket No.: 80100.034US2

NSPCT
Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:

CONTENTS: CONTINUATION UNDER 111(a); Specification (21 pgs, including claims numbered 1 through 20 and a 1-page Abstract); Informal Drawings (4 sheets); Signed Declaration (4 pgs.); Power of Attorney (2 pgs); Charge deposit account in the amount of \$385.00 to pay the filing fee; Information Disclosure Statement (2 pgs); Form 1449 (1 pgs); Copy of International Search Report (2 pgs); return postcard and transmittal sheet.

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